MINUTES
of the
SECOND MEETING
of the
BEHAVIORAL HEALTH SUBCOMMITTEE
of the
LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

September 17, 2014
J. Cloyd Miller Library
Western New Mexico University
Silver City

The second meeting of the Behavioral Health Subcommittee of the Legislative Health and Human Services Committee (LHHS) was called to order by Representative Elizabeth "Liz" Thomson, chair, on September 17, 2014 at 9:15 a.m. in the J. Cloyd Miller Library at Western New Mexico University (WNMU) in Silver City.

Present
Rep. Elizabeth "Liz" Thomson, Chair
Sen. Benny Shendo, Jr., Vice Chair
Sen. Howie C. Morales
Sen. Bill B. O'Neill
Sen. Gerald Ortiz y Pino
Sen. Mary Kay Papen
Rep. Edward C. Sandoval

Absent
Sen. Sue Wilson Beffort
Sen. Craig W. Brandt
Rep. Sandra D. Jeff
Rep. Paul A. Pacheco
Sen. Sander Rue

Guest Legislators
Rep. Rodolpho "Rudy" S. Martinez
Sen. Cisco McSorley

Staff
Shawn Mathis, Staff Attorney, Legislative Council Service (LCS)
Michael Hely, Staff Attorney, LCS
Rebecca Griego, Records Officer, LCS
Nancy Ellis, LCS

Guests
The guest list is in the meeting file.

Handouts
Copies of all handouts, including those from public comment, are in the meeting file.

Wednesday, September 17

Call to Order

Representative Thomson welcomed all of those assembled and asked subcommittee members and staff to introduce themselves. The chair then introduced Dr. Joseph Shepard, president of WNMU.

Welcome

Dr. Shepard welcomed the subcommittee to WNMU and thanked behind-the-scenes volunteers who facilitated the meeting, including library staff and volunteer members of the Grant County Prospectors who provided food for the event. Dr. Shepard turned subcommittee members' attention to a nearby glass display case assembled by library staff to educate students about the important work of legislative interim committees. The display includes details about the subcommittee and photos of each of its members. Behavioral health is so important, and, too often, it gets lost in translation, Dr. Shepard said. He assured members that WNMU will always be a partner with the state in helping to meet behavioral health care needs.

Behavior Management Services (BMS) Panel

Julie Weinberg, director, Medical Assistance Division, Human Services Department (HSD), which administers the Centennial Care (CC) program, said that data from CC on behavioral health service utilization will be released soon and that her division desires to put out good, informative numbers. Because Medicaid pays for most BMS, Ms. Weinberg turned the presentation over to Wayne Lindstrom, Ph.D., director of the Behavioral Health Services Division (BHSD), HSD, and chief executive officer of the Interagency Behavioral Health Purchasing Collaborative.

Dr. Lindstrom outlined several aspects of BMS that are provided to children and youths requiring intervention to avoid hospitalization, residential treatment or separation from their families (see handout). These services are part of the Medicaid Early Periodic Screening, Diagnosis, and Treatment Program, and are incorporated into individualized treatment plans based on clinical assessments, Dr. Lindstrom said. BMS include a regimen of positive intervention and reinforcement strategies to help each child function successfully within the home and in the community. During the first six months of CC implementation, BMS increased significantly, Dr. Lindstrom said, while it appears that more intensive behavioral health services to children have lessened. He attributed this decline to probable past overutilization. It is important that the behavioral health system find new and creative ways to encourage family participation in BMS, Dr. Lindstrom said.

Subcommittee members asked why a representative from the Public Education Department (PED) was not present on this panel and were informed by Ms. Mathis that PED representatives had not responded to any of several invitations to participate.

Daphne Rood-Hopkins, director of the Behavioral Health Services Division of the Children, Youth and Families Department (CYFD), said that BMS is one of six services that her division certifies for Medicaid. Ms. Rood-Hopkins provided numerical data to subcommittee members regarding BMS delivered between January 1 and September 17, 2014: seven consumers in fiscal year 2014 were reimbursed through state general funds for non-Medicaid services consisting of an hour a week at the University of New Mexico (UNM); and there are 10 agencies currently licensed to provide BMS through Medicaid serving the following number of clients: Agave Health, Inc., 233; Amanecer Psychological Services, 16; The Community Lighthouse, two; Desert Hills, 48; La Frontera New Mexico, 74; Open Skies Healthcare, 58; Streetwise, Inc., 38; Turquoise Health and Wellness, 35; and Valle del Sol, 120, for a total of 624 clients.

A subcommittee member requested that Ms. Rood-Hopkins document for the subcommittee the total numbers she has reported, and she agreed to provide this information to staff (see handout).

The Honorable Marci E. Beyer, Third Judicial District Court judge, described herself as a member of a group of juvenile court judges that is becoming disillusioned with the system in New Mexico and with New Mexico's continual lack of resources. She agreed to participate on the panel today to help legislators understand the gravity of this crisis. The criminal justice system has become a dumping ground for mental health issues, Judge Beyer said. The current situation with children is that most often, detention or a juvenile correctional facility is the only safe place to house them. Judge Beyer sees about 300 juvenile cases each year, and she described the case of a 16-year-old girl with mental illness and drug addiction who was also the victim in multiple sex cases. Judge Beyer said she had to keep this girl in detention in order to keep her safe because there are so few mental health facilities in New Mexico. Only one agency can assess children — La Frontera New Mexico — and while the assessment is supposed to be done within 24 hours, it actually takes two to three weeks, she said. In other cases cited by Judge Beyer, two male youths waited five to six months in detention, and she finally sent them to an out-of-state facility for treatment. These juveniles are growing up to be housed in the adult system, she said.

Mr. Hely said that when BMS are indicated as a medical necessity along with an individual education plan (IEP), prior authorization with a CYFD-approved provider must be obtained. While Dr. Lindstrom mentioned that BMS utilization increased in the first six months of 2014, Mr. Hely said, it is important to remember that the entire behavioral health system was upended in June 2013. If subcommittee members want data, they need to make comparisons to the data prior to June 2013. The question to be asked is whether there has been a tightening of preauthorizations, and if so, do children have to present with more serious problems before services are authorized. Packets in subcommittee members' folders for today's meeting show turmoil at La Frontera New Mexico, Mr. Hely noted, so the ability to obtain data is compromised. The Legislative Finance Committee could obtain data through subpoena power, Mr. Hely said, adding that information technology systems at the HSD apparently are not

working with the managed care organizations' (MCOs') systems. Mr. Hely urged an action plan by the subcommittee to obtain quality data from the BHSD and the HSD.

On questioning, panel presenters and subcommittee members addressed the following topics.

More questions about data. Subcommittee members were adamant about seeking data prior to June 2013, which apparently are difficult to obtain at this time, and members asked about BMS clients who were being served prior to what one member termed "behavioral healthgate" and whether those clients have been contacted. Ms. Weinberg said her division has asked behavioral health agencies to help identify individuals who were getting BMS prior to the transition, but to date, not many have been located. BMS are not intended to be long-term services, Ms. Weinberg added. Mr. Hely asked if any directives were issued to providers or department heads about overutilization of BMS. Ms. Weinberg said there had not been any directives; the same prior authorization is being used now as was used under OptumHealth (the predecessor to CC).

Relationship between school-delivered BMS and Medicaid BMS. A subcommittee member asked how these services fit together. Ms. Weinberg said that it is complicated. There are Medicaid school-based services programs, and there is a federal match for services delivered in public schools as part of the IEP. Certain, but not all, Medicaid-based services delivered in the school are reimbursed, she said, and for some others but not for BMS, there is administrative reimbursement. The member asked if there were issues between the Medical Assistance Division and the schools regarding payment for BMS, and Ms. Weinberg said that she was not aware of any.

Engaging family participation. A new service under CC is family support, Ms. Rood-Hopkins said, but this has not yet been activated. Training will begin soon, delivered by a national expert, she said. The CYFD also has a family advocacy contract, and the department would like to expand this, but it does not have funds available to do so, she said. A subcommittee member asked whether the CYFD had sought more funding in the budget for this service, and Ms. Rood-Hopkins responded that it had not, due to multiple other priorities for mandatory services such as safe housing and shelter. She said there were other CYFD divisions with larger needs, and she chose not to ask for all that her division needs. Another member suggested that community health councils might be utilized to help generate family engagement.

How is "overutilization" determined? Medicaid requires all medically necessary services for children through age 20 to be delivered, Ms. Weinberg said, and the budget is based on an estimate of that utilization. Judge Beyer questioned the assertion that BMS have been overutilized, stating that she sees just the opposite. The number of agencies that do assessments has been reduced, she noted, and the concept of 90 days as a treatment period is completely unrealistic. These children need six months to a year, and they need step-down services. Instead, it has become a revolving door, she said. It is common sense to provide effective treatment, and

it needs to be done right, Judge Beyer said. A subcommittee member expressed frustration that legislators cannot understand what needs exist when agencies come to them with flat budgets. Legislators need more help, the subcommittee member said; it is either pay now or pay later. Another subcommittee member who has an adult son with autism took exception to the HSD's use of the term "overutilized". Mental illness and autism do not get cured, the subcommittee member pointed out. These are lifetime services, and it is not overutilization to provide continual services. Ms. Weinberg responded that in a review of some BMS cases, clinical notes indicated that too many services were being provided because the behaviors had already been corrected.

More information requested by subcommittee members. A subcommittee member asked about obtaining a copy of the annual surveys of certified CYFD providers, and the member was told these could be provided. The member also asked about CYFD training for BMS. Dr. Lindstrom said this is done through a clinical liaison assigned to each provider. The subcommittee member asked for a list of liaisons and trainings over the last four years. The member also provided a large packet of information to subcommittee members that included a letter from a therapist who formerly worked for La Frontera New Mexico and is highly critical of that organization, along with copies of La Frontera New Mexico survey results showing multiple violations of state standards. There is a lot of information that the subcommittee is requesting, one subcommittee member noted. Citing the tumultuous transition from 15 mental health care providers to the current five providers from Arizona, with two of these five reportedly planning to leave New Mexico, a subcommittee member expressed extreme frustration with how mental illness is treated in New Mexico. It is shameful, the member said. Another member moved that the subcommittee ask the LHHS to send a letter to State Auditor Hector Balderas, asking him to investigate the HSD/CYFD audits of the Arizona companies. The motion was seconded and passed unanimously.

Are Arizona providers cutting services? Dr. Lindstrom admitted that there were significant vacancies among the agencies, and that when there is a shortage of staff, there will be a shortage of services. He also agreed that there is a problem with providers being hired away by MCOs and other organizations offering higher salaries, further depleting the available work force. A subcommittee member asked Judge Beyer if she had observed a crisis in service delivery during the past summer. Judge Beyer confirmed that there were several months when no services were available, and she said that current service availability has not returned to the previous level. The subcommittee member then asserted that denial of services is a constitutional denial of civil rights, and this issue should be taken before the judiciary. An independent body should oversee behavioral health services in the state, the subcommittee member continued. It constitutes corruption in state government when $24 million has been spent on Arizona companies that signed on before the HSD's audit was complete. Something dramatic needs to be done, the subcommittee member concluded.

Another subcommittee member, describing himself as a lawmaker who is relatively new to the legislative process, said he does not understand the powerlessness of the legislature, nor

how legitimate requests to agencies for information can be completely ignored. A mutual working relationship between the legislature and state agencies should exist, he said, agreeing that something dramatic needs to be done.

Reviewing the stack of La Frontera New Mexico surveys, a member detailed a list of deficiencies noted on a single page of an annual quality survey: initial assessment not performed by a licensed clinician; person who was supposed to sign it did not; no treatment update found; plan not signed by clinical supervisor; and progress note documentation not found for an eight-month period. The subcommittee member asked why this is not a credible allegation of fraud, suggesting that perhaps payment to La Frontera New Mexico should be stopped.

Return on Investment for School-Based Health Clinics with Primary Focus on Behavioral Health

Suzanne Gagnon, former board member of the New Mexico Alliance for School-Based Health Care (NMSBHC), nurse practitioner and Robert Wood Johnson Foundation Nursing and Health Policy Fellow at UNM, provided members with a presentation on the value of school-based health care (see handout). New Mexico has 56 Department of Health (DOH)-funded school health clinics, providing a total of 45,000 visits annually. A school-based health center (SBHC) brings a broad range of services into schools that meet specific needs of youths and offers primary and behavioral health care in a convenient setting. Prevention and early intervention help reduce barriers to learning, Ms. Gagnon said, improving school attendance and grades. Nationally, one in five adolescents has a diagnosable mental health disorder. In a study of New Mexico's 56 SBHCs, 20 percent of users receive behavioral health treatment for depressive disorders, family problems or academic difficulties. Ms. Gagnon described a return-on-investment (ROI) tool that is being used to capture the economic value of SBHCs. The ROI analysis shows that more than $6.00 is returned for every $1.00 invested in New Mexico's SBHCs (see handout). The ROI data provide concrete evidence of the value of primary care screening and early intervention offered at SBHCs, Ms. Gagnon concluded.

Adrian Carver, president-elect of the board of directors, NMSBHC, described the negative effects of the 2009 cuts to the DOH's Office of School and Adolescent Health (OSAH) budget, providing a chart of 2015 legislative priorities for his organization (see handout). While New Mexico's SBHCs received increased funding of $500,000 last year, the alliance is urging that pre-recession levels of funding be restored. The NMSBHC is asking for a total of $2.5 million, as well as capital outlay funding from individual legislators for new clinic construction. The increased funding would allow the hours of service to be extended, Mr. Carver said, and $2 million alone will be needed to reopen SBHCs that have closed since 2009. A subcommittee member noted that the alliance is a nonprofit organization, and funding would have to go to the DOH. If funding is not requested by the DOH, it will not get into the budget, the subcommittee member told Mr. Carver. SBHCs are not owned by the schools, Mr. Carver explained. Generally, SBHCs are run by federally qualified health centers or other entities that are separate from the schools because of the federal Health Insurance Portability and Accountability Act privacy concerns.

Yolanda Cordova, director of the OSAH, said new SBHCs need fixed spaces to comply with clinical standards, but the provided space and the equipment and furniture in the space will belong to the school. More funding is needed for operations, Ms. Cordova said, but subcommittee members noted that the DOH budget is flat. Ms. Cordova said that the PED has been supportive of SBHCs but has no money for them, either. Ms. Gagnon said that the alliance continues to look for grant opportunities.

Adult Substance Abuse Continuum

Susie Trujillo, project developer for Gila Regional Medical Center and long-time community health advocate, described Grant County's Community Assessment 2012 that broke the state record for participation with more than 5,000 residents out of a total population of 29,514 participating, and that resulted in a comprehensive community health profile. Ms. Trujillo provided subcommittee members with a thumb drive containing 10 fact sheets about Grant County and its communities; an article about nationwide problems with substance abuse treatment since the advent of the federal Patient Protection and Affordable Care Act; and a copy of the Grant County Substance Abuse Epidemiology Profile 2014 (see handouts). Grant County Commissioner Ron Hall, who has held many other positions in the community, including in law enforcement and serving as a judge, was charged with leading an effort to put together a substance abuse continuum of care plan specifically tailored for Grant County. Members of the work group included representatives of the judiciary, law enforcement, first responders, the detention center, hospitals and local behavioral health providers, among others, and the work group met frequently, sometimes as often as several times a week. The work group came up with a conceptual treatment center to be funded by the county (see handout).

Mike Carrillo, administrator of the Grant County Detention Center and a member of the work group, said it has become clear that change is needed. The detention center currently houses approximately 100 inmates; has a recividism rate of 75 percent; and has many inmates with alcohol, substance abuse and mental health issues. These folks do not belong in jail, Mr. Carrillo said, and generations of families, children and grandparents are being lost. There are no resources to help with post-incarceration transition, and if inmates are not given something to build on, the need to build more jails will result. The current system of detention is not working, he said, but corrections cannot change without the resources to assist that change.

Chris DeBolt, Grant County Community Health Council coordinator, recited statistics from the county health sheet produced by the council; described the council's community resource directory; and described a report on the New Mexico Crisis and Access Line, NMCRISIS (see handout), which answered 6,804 calls between February 2013 and January 2014. Subcommittee members were asked to utilize their respective community health councils and to promote the state's crisis help line.

Jim Helgert, professor of chemical dependency in the College of Professional Studies at WNMU, described multiple related academic offerings at the university, with 35 majors and 15 majors in interdisciplinary studies. The chemical dependency program at WNMU is the only

four-year program in the state, he said, and its graduates can immediately apply for licensure upon graduation. Mr. Helgert's students have completed internships at local provider agencies, and he urged the state to change its Medicaid regulations so that independent providers who do not work for community mental health centers will also be able to bill Medicaid for services. He sees a robust role for WNMU in work force development, providing important mental health/substance abuse practitioners for New Mexico.

A subcommittee member congratulated the presenters for their efforts to emphasize the public health system, not the corrections system, in addressing alcohol and substance abuse problems. South Dakota adopted a similar focus, the member noted, and in the first year, South Dakota saved $42 million. These efforts are a paradigm shift from a prison system to a public health system. In Bernallilo County, one-half of the county budget goes to the detention center, costing $100 per day per person detained, instead of costing $22.00 per day per person housed in a halfway house with behavioral health services. New Mexico is last in the nation in providing alternative services to incarceration, the subcommittee member concluded. Another subcommittee member commented that this effort provides a unique opportunity for Grant County to become a rural model. He asked if the group was considering partnering with Ft. Bayard Medical Center Yucca Lodge as a possible treatment facility. That partnership is under consideration, Ms. Trujillo said, but funding is an issue because Yucca Lodge is heavily dependent on general funds for its operation. The Grant County group will be putting out a request for proposals on this soon, Ms. Trujillo said.

Update on Sequoyah Adolescent Treatment Center

Brad McGrath, chief deputy secretary, DOH, described a major change in the treatment model for Sequoyah Adolescent Treatment Center (SATC) over the past two years (see handout). The facility serves New Mexico males between the ages of 13 and 19 in a secured residential setting who have threatened to harm themselves or others, who have a history of physical aggression, who are suicidal or who have worsening psychiatric symptoms or other mental health conditions. Referrals come from juvenile probation departments, the CYFD and mental health care providers. The former treatment model was based on a corrections philosophy and a punitive culture, using chemical and physical restraints to control behavior, Mr. McGrath said. The current treatment approach involves a team of psychiatrists, psychologists, nurses and teachers who collaborate on a resident-centered care plan, using a crisis prevention intervention model supported by the CYFD and Disability Rights New Mexico (DRNM).

The new approach to treatment incorporates a family-centered Building Bridges initiative and evidence-based treatment in trauma-informed care, Mr. McGrath said. The CYFD has oversight of the facility, with its licensing and certification authority overseeing clinical and environmental care and staff competencies. The SATC is also fully accredited by The Joint Commission, a national independent, nonprofit organization that ensures certain performance standards. There is a governing board, made up of state executives and administrators, and an advisory board, which has been inactive since the transition but will soon be reactivated. The

SATC is an approved school district and provides one-on-one teaching during the required minimum instruction of five hours a day.

Carmela Sandoval, SATC administrator, said the current census is 22, with a projected goal of 30 in 2015. The average length of stay is shorter under the new treatment model, going from 368 days in 2012 to 276 days in 2014, with a treatment priority of reintegrating residents back into their families and communities, she said. The SATC admission process includes a team assessment to ensure that admissions are appropriate for a successful outcome. The presentation also included a description of staff vacancies at the facility (15 percent of 120 full-time employee positions); a breakdown of costs for contracted services; a list of licensed clinical staff; clinical data on the incidence of seclusions, restraints and staff injuries; a list of past and future capital improvements; and total budgets and expenditures since 2012.

Upon questioning, Mr. McGrath, Ms. Sandoval and subcommittee members discussed the following topics.

Long-term follow-up. A subcommittee member noted that the new treatment focus looks a lot like the Missouri Model, where the setting is more like a home than a prison. The member asked what happens to residents once they leave, and the member noted that longitudinal studies are needed to measure success. The subcommittee member also suggested that administrators might want to look to the Casey Foundation for help in making more effective changes.

Concern about selective admissions. The SATC was established as a facility for violent adolescent males, a last resort, and it seems this purpose has been changed, one subcommittee member noted. Mr. McGrath agreed, but pointed out that when the legislature created it, "treatment" was always in the name. The subcommittee member said that he was concerned about "cherry-picking" in admissions and asked what happens to boys who are turned away. If the boys came from jail, then they return to jail if it is determined that the SATC is not an appropriate placement, Mr. McGrath said. The SATC is a treatment center, with a focus on progress. Another subcommittee member said that she was offended by a criterion for rejection: an inability to learn. She is concerned that persons with cognitive disabilities are being put back into the jail system.

Compliments for progress. Jim Jackson, executive director of DRNM, said his organization was involved with some of the SATC investigations over the past several years, and the two organizations have worked well together. Mr. Jackson said that the whole atmosphere and culture of the facility have changed markedly, and he wanted to acknowledge this positive direction.

Subcommittee Business

A motion was made to approve the minutes of the July 24, 2014 meeting. The motion was seconded and approved unanimously.

Ms. Mathis provided members with a bound copy of a Review and Summary of Behavioral Health Findings and Recommendations prepared by Carolyn Ice, LCS research assistant, and Carolyn Peck, LCS student intern. This is a catalogue of key findings from 2001 to 2014, and members will see that these issues have been very well-studied, Ms. Mathis said. The summary is a tool that can be updated annually, Ms. Mathis advised, so it should be kept as an ongoing resource reference.

Public Comment

Henry Gardner, a child psychologist, said he was speaking today as a private citizen. Dr. Gardner said he worked at the SATC, treating the mentally ill for more than 20 years, and those adolescents who are being turned away now are the ones who were meant to be treated, he said. During his tenure, the SATC compiled data, met its budget and had a quality assurance program. The average length of stay was 210 to 220 days, he said. Children should not grow up at the SATC, but they have to stay there long enough to do some good. Dr. Gardner said his main issue with today's presentation is that the population discussed is not the population for which the SATC was built. The original mission of the SATC was to treat children that no one else wanted to help, he said. The SATC should not be competing with private facilities; it should be a last resort.

Victor Strasburger, M.D., said he worked for the SATC for 18 years, until a few months ago. He asserted that there are not 22 patients currently, there are 19, and they are patients, not "boys", as repeatedly referred to by Mr. McGrath. The SATC has had a census as low as 12 to 13 because it routinely turns patients away, he said. There have been three different directors of nursing in the past two years, and all have been good. There exists a management team that does not like disagreement. The medical director is an anesthesiologist. UNM psychiatrists have pulled out of the SATC because they believe that the treatment is substandard. That is why the SATC is contracting out the psychiatric services, Dr. Strasburger said.

Adjournment

There being no more business before the subcommittee, the meeting adjourned at 4:30 p.m.